

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Alternative Delivery Provider 1 Contracts  
(MC2017-82)  
Negotiated Service Agreement

Docket No. CP2018-177

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE NOTICE CONCERNING AN  
ADDITIONAL ALTERNATIVE DELIVERY PROVIDER 1  
NEGOTIATED SERVICE AGREEMENT

(March 13, 2018)

The Public Representative hereby provides comments pursuant to the Commission's Notice of Initiation of this docket.<sup>1</sup> In that Notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing a functionally equivalent Alternative Delivery Provider 1 (ADP 1) negotiated service agreement (Agreement).<sup>2</sup>

Customers for ADP 1 contracts are small or medium sized business that mail products directly to foreign destinations. *Notice* at 4. Prices offered pursuant to an agreement may differ depending upon the volume or postage commitments made by the mailers. *Id.*

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<sup>1</sup> PRC Notice Initiating Docket No. CP2018-177, March 6, 2018

<sup>2</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Alternative Delivery Provider 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, March 5, 2018 (Notice).

Prices and classifications “not of general applicability” for Alternative Delivery Provider 21 agreements were previously established by Governors’ Decision No. 11-6.<sup>3</sup> In Order No. 3793, the Commission added the ADP 1 product to the competitive product list.<sup>4</sup> The agreement filed in Docket No. CP2017-111 would serve as the baseline agreement for functional equivalence comparisons with future agreements. *Id.*

The Postal Service will establish the effective date of this agreement and file a notice to inform the Commission of the effective date. The Agreement is expected to remain in effect for one calendar year from the effective date, subject to early termination provisions. *Notice at 3.*

The Postal Service states that the Agreement is functionally equivalent in all pertinent respects to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Notice at 6.* The Postal Service therefore requests that the Agreement be added to the ADP 1 product grouping. *Id.*

## COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the Agreement, and supporting financial model filed under seal as part of the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices in the Agreement should generate sufficient revenues to cover costs.

*Functional Equivalence.* The Postal Service asserts that the Agreement shares similar cost and market characteristics as those of the contract that is the subject of

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<sup>3</sup> See Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors Decision No. 11-6).

<sup>4</sup> PRC Order No. 3793, Order Adding Alternative Delivery Provider 1 to the Competitive Product List and designating Baseline Agreement, Docket Nos. MC2017-82 and CP2017-111, February 16, 2017.

Docket No. CP2017-111, which serves as the baseline agreement for the ADP 1 product grouping. *Id.* at 3. However, the Postal Service identifies differences between the Agreement and the ADP 1 baseline agreement. *Id.* at 4-6. Most of these differences are specific to the customer (e.g., the customer's name and address). Other differences between the Agreement and the ADP 1 baseline agreement include revisions to paragraphs; revisions to numerous existing articles, as well as deletion, addition and renumbering of some articles; revisions to Annex 1. *Id.*

The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.* at 5. The Public Representative concludes that the Agreement exhibits similar cost and market characteristics to the baseline agreement. Therefore, the Public Representative agrees that the Agreement is functionally equivalent to the baseline agreement and should be added to the ADP 1 product.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial model does not directly address whether the addition of the Agreement to the ADP 1 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Agreement should generate sufficient revenue to cover its total costs. In addition, the agreement appears to contain a mechanism for the adjustment of prices under the contract.

The addition of the Agreement to the ADP 1 product will not cause the product's cost coverage to fall below 100 percent. In addition, the addition of the Agreement should continue to allow competitive products as a whole to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1).

The Commission will have an opportunity to review the financial results for the Agreement in a future ACD Report for compliance with 39 U.S.C. 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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